

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

STANDING ORDER IN CRIMINAL CASES

JUDGE LARRY ALAN BURNS
Courtroom 9, 2nd Floor
Tisha Washam, Courtroom Deputy
(619) 557-6038

1. CALENDAR

Criminal matters are heard on Mondays at 9:30 AM and 2:00 PM, unless otherwise scheduled by the Court. Except for emergency hearings, counsel must contact the courtroom deputy by **1:30 PM the Friday before the requested hearing date** to have a matter placed on calendar.

2. MOTIONS

All motions, except those pertaining to Guidelines sentencing departures, shall be filed at least **14 days** before the hearing date. Opposition briefs shall be filed at least **7 days** before the hearing date. **Applications for Orders Shortening Time are disfavored, and must be supported by a non-conclusory affidavit signed by counsel setting forth facts establishing specific good cause.** An original and two copies of the Application shall be submitted directly to chambers, **not filed with the Clerk's Office.**

In the event of a disposition in any case calendared for a motion hearing, **both** counsel shall notify the courtroom deputy at the earliest possible time of the fact of the disposition and request that the motion hearing date be vacated.

Motions for Guidelines sentencing departures shall be filed at least **13 days** before the sentencing hearing date. Responses or opposition to motions for Guidelines sentencing departures shall be filed at least **5 days** before the sentencing hearing date. All other sentencing memoranda that do not include a request for departure shall be filed at least **5 days** before the sentencing hearing. **All counsel shall strictly adhere to Crim. L.R. 32.1(a)(9), which provides that sentencing summary charts setting forth pertinent Guidelines calculations shall be submitted directly to chambers at least 5 days before the sentencing hearing.**

A party requesting a continuance of a sentencing hearing must notify the courtroom deputy at the earliest possible time, **but in no event later than the Friday before the scheduled sentencing date.**

3. EVIDENTIARY SUBMISSIONS MUST CONFORM WITH LOCAL RULES

All motions and oppositions to motions shall, **at the time of initial filing**, comply with Crim. L.R. 47.1(g)(1) and (2), which provide that criminal motions requiring a predicate factual finding (*e.g.*, motions to suppress statements on Miranda or voluntariness grounds) shall be supported by declarations, filed under penalty of perjury, and shall set forth all facts then known and upon which it is contended the motion should be granted or denied.

4. PRETRIAL RELEASE

Pretrial release decisions and modifications of release conditions are to be made by the Magistrate Judge, subject to appeal. The Court will hear appeals on an emergency basis, provided that counsel appealing a pretrial release decision has served notice on the opposing party at least **24 hours before the hearing** and has supplied the Court with a transcript of the hearing before the Magistrate Judge.

5. RULE 11 GUILTY PLEAS

Unless the parties anticipate immediate sentencing, the Court encourages **all** Rule 11 guilty pleas to be entered before a Magistrate Judge.

6. TRIAL BRIEFS AND PROPOSED VOIR DIRE QUESTIONS

Parties may file trial briefs with the Court no later than 5 days before trial is to begin. A party should file a trial brief with the Court if there is any significant disputed issue of law, or if a party is requesting that specific questions be asked or specific topics be covered during the Court's voir dire.

7. TRIAL PROCEDURE

The Court expects counsel and witnesses to be on time.

All counsel shall make every effort to have their witnesses available all day on the day the witnesses are to testify. The Court will attempt to accommodate witnesses' schedules and will generally permit witnesses to testify out of sequence, if necessary. Counsel shall anticipate the need for witnesses to be available and, if there is any question, discuss it with

opposing counsel or with the Court. Counsel shall promptly alert the Court to any scheduling problems involving witnesses.

Defense counsel shall arrange before trial for in-custody clients to be dressed out.

8. EXHIBITS

All exhibits offered by a party must be pre-marked for identification before the court session in which the exhibit is to be referred to or offered in evidence.

Government counsel shall provide the courtroom deputy with a list of exhibits before trial begins.

Exhibits must be admitted in evidence before they are displayed to the jury.

9. BENCH CONFERENCES

Sidebar conferences are discouraged. Requests to speak to the Court outside the jury's presence should be made at the start of a recess or at the end of the trial day. The Court will not grant requests for conferences out of the jury's presence at the beginning of the trial day or following a recess.

10. JURY INSTRUCTIONS

The Court uses Ninth Circuit Model Criminal Jury Instructions, and gives standard instructions in every criminal case. Counsel for the government shall submit proposed Model Instructions defining the elements of the offense(s) to be tried. All counsel will be provided with a written copy of the final instructions before the Court reads them to the jury.

A party may propose appropriate modifications to the Model Instructions. Proposed modifications to the Model Instructions must clearly delineate the modification and the reason or authority for it. All other non-standard proposed instructions (*e.g.*, theory of defense) shall be submitted in duplicate and adhere to the following format:

a. The first copy shall contain the instruction and the authority supporting the instruction;

b. The second copy shall contain only the proposed instruction with no other marks or writing except for the heading "Court's Instruction No.____" with the number left blank;

c. All proposed instructions shall be written in 14 point Times New Roman font and double spaced.

Proposed jury instructions from all parties must be filed with the Court and served on all parties no later than the Friday before trial is to begin. Supplemental instructions must be filed with the Court and served on all parties as soon as the need for them becomes apparent.

11. COMMUNICATION WITH THE COURT OR CHAMBERS

Consistent with Civ. L.R. 83.9 (incorporated to criminal actions by Crim. L.R. 1.1(e)), attorneys and parties shall refrain from writing letters to the Court or sending the Court copies of letters addressed to others, or otherwise causing unauthorized *ex parte* correspondence to be delivered to chambers. Instead, all matters for the Court's attention shall be formally submitted in compliance with the Local Rules, the Federal Rules of Criminal Procedure, and the Federal Rules of Evidence.

Absent unavoidable circumstances, counsel shall **personally** initiate any authorized communication with the Court or with chambers staff, rather than rely on a representative (*e.g.*, a secretary or paralegal).